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5 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
6 AT TACOMA

7 JAMES EDWARD CURTIS,

8 Plaintiff,

9 v.

10 TERRY J. BENDA, *et al.*,

11 Defendants.

Case No. C08-5109 FDB


ORDER ADOPTING REPORT AND  
RECOMMENDATION DENYING  
MOTION TO DISMISS

12 This matter comes before the Court on the recommendation of the Magistrate Judge that  
13 Defendant's 12(b)(6) motion to dismiss Plaintiff's civil rights complaint be denied. Defendant has  
14 not filed an objection and appears to have conceded that the motion lacks merit.

15 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L.  
16 Strombom, and the remaining record, does hereby find and ORDER:

- 17 (1) The Court adopts the Report and Recommendation;  
18 (2) Defendants' motion to dismiss (Dkt. # 11) is **DENIED**;  
19 (3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants  
20 and to the Hon. Karen L. Strombom.

21 DATED this 26<sup>th</sup> day of September, 2008.

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24 FRANKLIN D. BURGESS  
25 UNITED STATES DISTRICT JUDGE  
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